

REMARKS

Claims 11-16 are pending. Claims 13-16 are new. Support for claims 13-16 may be found in the original claims and the specification as filed. Accordingly, Applicants do not believe that any new matter has been introduced by way of the new claims.

Claims 11 and 12 stand rejected over EP 1 093 817 to Stankov in view of U.S. Patent No. 5,399,348 to Schwabe for the reasons set forth on pages 3 and 4 of the Office Action. Specifically, on page 3 of the Office Action, the Patent Office asserts that Stankov's abstract teaches treatment for "overweight and obesity" in humans with active ingredients from *Ginkgo biloba*. Although the Patent Office admits that Stankov does not teach the specific weight percentage amounts and/or ppm of flavone glycosides, ginkgolides, bilobalide, alkylphenol, and proanthocyanidines recited in the claims, it suggests that Schwabe provides these weight percentage amounts. The Patent Office concludes that claims 11 and 12 are obvious over the combined teachings of Stankov and Schwabe.

Applicant respectfully traverses the rejection. Stankov teaches the treatment of "overweight and obesity" in humans with compounds with adrenergic activity (e.g., ephedrine and pseudo ephedrine). Such compounds stimulate thermogenesis, which, in turn, is what leads to loss of body weight and fat. Stankov at [0005]. But, such compounds produce significant side effects, such as hypertension and tachycardia. Stankov at [0007], [0011]. Stankov found that *Crataegus* and *Ginkgo biloba* extracts, which contain flavonoids and flavonglycosides, respectively, inhibit such side effects when they are co-administered with compounds with adrenergic activity. Stankov at [0011]. Interestingly, neither extract, by itself, effectively inhibits, e.g., hypertension. Stankov at [0012].¹ Contrary to the Patent Office's reading of Stankov, it is the compounds with adrenergic activity that treat "overweight and obesity" and not the combination of *Crataegus* and *Ginkgo biloba* extracts. The extracts are there simply to counteract the side effects of the compounds with adrenergic activity. Accordingly, claims 11 and 12 are not obvious in view of Stankov's teachings.

Schwabe does not remedy the stark deficiencies of Stankov. Schwabe admittedly teaches an extract from *Ginkgo biloba* having 20-30% weight flavone glycosides; 2.5-4.5% weight of ginkgolides A, B, C, and J; 2.0-4.0% weight bilobalide, less than 10 ppm alkylphenol compounds, and less than 10% weight proanthocyanidins. Applicants have pointed out in previous responses to Office Actions, however, that Schwabe uses such extracts to treat entirely different conditions (e.g., to stimulate the circulation of

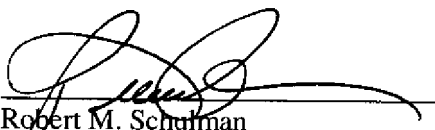
¹ "This synergistic action is surprising since the same *Crataegus* extract, if not combined with the extract from *Ginkgo biloba*, does not by itself exert such activity at the dosages used and in order to show any anti-hypertensive activity, the dosages of must be 2 to 4 times higher. Moreover, the extracts of *Ginkgo biloba* do not exert hypotensive effects at any dosage." Stankov at [0012].

blood, prevent ischemic disorders, and inhibit platelet aggregations). Applicants submit that, at best, Schwabe validates the notion set forth in Stankov that Ginkgo biloba extract could counteract the side effects of the compounds with adrenergic activity, such as hypertension, by stimulating the circulation of blood. Schwabe, however, cannot, and should not, be used to remedy the fact that Stankov teaches the use of compounds with adrenergic activity to treat "overweight and obesity" and **does not** teach using Ginkgo biloba extracts to treat the same condition. Instead, Stankov uses such extracts, in combination with Crataegus extracts, **only** to counteract the side effects of the compounds with adrenergic activity. Accordingly, Stankov alone, or in combination with Schwabe, does not render claims 11 and 12 obvious. Applicant therefore respectfully requests that the obviousness rejection be withdrawn.

In view of the foregoing, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested. If the Examiner feels that issues may be resolved via a telephonic conference, Applicant's undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 955-1500. All correspondence should continue to be directed to our address given below.

Respectfully submitted,
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